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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,999	02/02/2001	Paul Stiros	8412	7441

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THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
WINTON HILL BUSINESS CENTER - BOX 161  
6110 CENTER HILL AVENUE  
CINCINNATI, OH 45224

EXAMINER
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CHORBAJI, MONZER R

ART UNIT	PAPER NUMBER
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1744

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/06/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/775,999	<b>Applicant(s)</b> STIROS ET AL.	
	<b>Examiner</b> MONZER R. CHORBAJI	<b>Art Unit</b> 1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 22-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

**This non-final action is in response to the Appeal Brief filed on 10/18/2006**

1. In view of the appeal brief filed on 10/18/2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 22-28, 30-31, 33-34 and 40-41 are rejected under 35 U.S.C. 102(b) as being anticipated by Madjar (U.S.P.N. 4,078,891).

Regarding claims 40-41, Madjar discloses a deodorizing device (figure 1) that includes the following: a passive filter member (figure 2:45, 44 and col.4, lines 14-19) has a first filter element that is capable of holding various deodorizing mediums including sodium bicarbonate such that the passive filter member is capable of treating malodors in air, a forced air filter member having an inlet and an outlet (figure 1:20), the forced air filter member has a second filter element (col.3, lines 11-16) and an air moving member (figure 2:25), the second filter element has a second filter element (col.3, lines 11-16) that is capable of holding various deodorizing mediums including sodium bicarbonate, the air moving member has a housing (figure 1:10), the second filter element is positioned on an upper exterior portion of the housing (figure 1:20, 13 and 14) and is removable from the air moving member, both the second filter element and the upper exterior surface of the housing have complimentary surface topography (unlabeled surfaces of 20, 13 and 14 in figure 1) and the passive filter member is capable of being interchanged with the second filter element to be seated on the exterior portion of the housing. See MPEP 2114.

Regarding claims 22-28, 30-31 and 33-34, Madjar teaches the following: the passive filter element (figure 2:45, 44 and col.4, lines 14-19) is capable of being of the same shape and size as the second filter element, each of the passive filter member

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(figure 2:45 and 44) and the second filter member (figure 1:20) include a cartridge, the cartridge has inlets and outlets of top and bottom portions (for example, 20 in figure 1), the housing (figure 1:10) has an upper exterior portion having an air inlet (unlabeled air inlet where 20 is seated in figure 1) so that the second filter element cartridge having on both portions inlets and outlets that are aligned with the air inlet of the air housing ( in figure 1, 20 sits in the unlabeled air inlet), the housing has a fan (figure 2:25) where the first and the second filter elements are capable of holding various deodorizing medium including sodium bicarbonate or activated carbon placed between their top and bottom sides (for example of canister 20 in figure 1), the second filter element is held in place on the air moving member by gravitational force and also by surface topology of interfacing parts of the second filter element and the air moving member (figure 1:20, 13 and 14), the second filter element is removable from the air moving member by lifting the second filter element upwardly (figure 1:20 and 10) and either one or both of the second and the passive filter elements are capable of holding various different types of scents.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 35-36 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Madjar (U.S.P.N. 4,078,891) in view of Arnold, III (U.S.P.N. 4,995,556) and Booth, Jr. et al (U.S.P.N. 4,869,407).

Regarding claim 35, Madjar discloses a method (col.4, lines 42-60) for deodorizing air in a room (room is considered to represent an example of a confined space) that teaches the following: providing a passive filter member (figure 2:45, 44 and col.4, lines 14-19) has a first filter element with a deodorizing medium, providing a forced air filter member having an inlet and an outlet (figure 1:20), the forced air filter

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member has a second filter element (col.3, lines 11-16) and an air moving member (figure 2:25), the second filter element has a second filter element (col.3, lines 11-16), the air moving member has a housing (figure 1:10), the second filter element is positioned on an upper exterior portion of the housing (figure 1:20, 13 and 14) and is removable from the air moving member, both the second filter element and the upper exterior surface of the housing have complimentary surface topography (unlabeled surfaces of 20, 13 and 14 in figure 1), the passive filter member is capable of being interchanged with the second filter element to be seated on the exterior portion of the housing, positioning the passive filter member and the forced air member inside a room during the same period of time and neutralizing odor in the air of a room by allowing it to come into contact with the first filter member and by drawing air through the second filter member. Madjar fails to teach the use of sodium bicarbonate and placing the passive and the forced air filters in separate locations. Arnold deodorizes malodorous air encountered in refrigerators, confined space, (col.2, lines 3-6) by placing sodium bicarbonate (col.1, lines 7-10) in various containers (figures 1-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute Madjar's deodorants with Arnold's sodium bicarbonate since it is capable of adsorbing odors from the atmosphere thereby eliminating odors (Arnold, col.1, lines 54-59).

Arnold fails to teach placing passive and forced air filters in separate locations within a confined space. Booth utilizes multiple separate passive deodorizers at different locations when the room is of large volume (col.4, lines 17-19). Providing Booth's

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teaching into Madjar result in having various passive and active filters at various positions within a confined space, since each deodorizer of Madjar has passive and active filters together in one housing. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place Madjars' air deodorizers at various separate locations in a confined space as taught by Booth in order to insure that at every location within the entire volume of a large room the air is completely deodorized.

Regarding claim 36, both of the passive and active filters of Madjar are of the shape, which is round.

Regarding claim 38, Madjar treats air within rooms, but fails to teach deodorizing air within a refrigerator. Arnold teaches that air within refrigerators need to be deodorized (col.2, lines 3-6). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place Madjar's air purifier into a refrigerator as taught by Arnold since air within refrigerators is malodorous due to containing different kinds of food (Arnold, col.2, lines 3-6).

Regarding claim 39, Madjar treats air within rooms, but fails to teach deodorizing air within a refrigerator. Arnold teaches that air within refrigerators need to be deodorized (col.2, lines 3-6). Refrigerators inherently include separate compartments. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place Madjar's air purifier into a refrigerator as taught by Arnold since air within refrigerators is malodorous due to containing different kinds of food (Arnold, col.2, lines 3-6).



Arnold fails to teach placing passive and forced air filters in separate locations within a refrigerator. Booth utilizes multiple separate passive deodorizers at different locations when the room is of large volume (col.4, lines 17-19). Providing Booth's teaching into Madjar and Arnold result in having various passive and active filters at various positions within the various separate compartments of a refrigerator, since each deodorizer of Madjar has passive and active filters together in one housing. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to place Madjars' air deodorizers at various separate locations in a refrigerator as taught by Booth in order to insure that at every separate location within the refrigerator malodorous air is completely deodorized.

8. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Madjar (U.S.P.N. 4,078,891) as applied to claim 28 and further in view of Arnold, III (U.S.P.N. 4,995,556).

Madjar fails to teach the use of sodium bicarbonate. Arnold deodorizes malodorous air encountered in refrigerators, confined space, (col.2, lines 3-6) by placing sodium bicarbonate (col.1, lines 7-10) in various bags (figures 1-9). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute Madjar's deodorants with Arnold's sodium bicarbonate since it is capable of adsorbing odors from the atmosphere thereby eliminating odors (Arnold, col.1, lines 54-59).

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9. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Madjar (U.S.P.N. 4,078,891) as applied to claim 31 and further in view of Freestone (U.S.P.N. 1,977,760).

Madjar's interfacing parts of the second filter element and the air moving member have complimentary round shapes not hemispherical shapes; however, Freestone's interfacing parts of the second filter element and the air moving member have complimentary hemispherical shapes (figure 3:5 and 1). The instant disclosure does not provide any criticality regarding the hemispherical interfacing parts of the filter member and the air-moving member. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute Madjar's round interfacing surfaces of the second filter element and the air moving member with Freestone's hemispherical interfacing surfaces since a hemispherical shape promotes an easy and insuring way that all the deodorizing material is exposed to the air stream created by the action of the fan (Freestone, col.2, lines 46-52).

10. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Madjar (U.S.P.N. 4,078,891) in view of Arnold, III (U.S.P.N. 4,995,556), Booth, Jr. et al (U.S.P.N. 4,869,407) as applied to claim 36 and further in view of Aibe et al (U.S.P.N. 5,288,306).

Madjar, Arnold and Booth all fail to teach that the passive and the second filter elements are of the same size; however, Aibe uses passive filter members and second filter members that are of the same size (figure 1:6 and 7). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to design

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Madjars' passive and second filter elements of the same size as taught by Aibe since using plurality of filters having different deodorizing agents of the same size results in eliminating numerous different types of malodorous components (Aibe,col.8, lines 40-45).

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fox (GB 2 222 775 A), Kirkwood (U.S.P.N. 5,918) and Strobel-Fuchs (U.S.P.N. 2,784,465) all disclose deodorizing cartridges seated on the exterior surfaces of air moving housings.


12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 9:00-5:30.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, GLADYS J. CORCORAN can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*MRE*

  
GLADYS J. CORCORAN  
SUPERVISORY PATENT EXAMINER